

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOHN GARLAND, VINCENT A. BOTTALICO,
TIMOTHY A. HETON, JOSEPH BEVILACQUA,
JOSEPH CICERO, JOSEPH COLUMBIA, ANDREW
COSTELLO, JAMES DANIEL DALY III, VINCENT
DEFONTE, KENNETH DEFOREST, SALVATORE
DEPAOLA, BRIAN DOYLE, NATHAN EVANS,
CHRISTOPHER FILOCAMO, KEVIN GARVEY,
CHARLES GUARNEIRI, DANIEL J. OSHEA,
MARGOT LOTH, MICHAEL LYNCH, DENNIS
O'KEEFFE, BRIAN PATRICK SMITH, KURT
PFLUMM, CHRISTOPHER RAIMONDI, PAUL
SCHWEIT, JOSEPH T. JOHNSON, DAVID BUTTON,
PAUL PARR, MARK SINCLAIR, DANIEL
BAUDILLE, JOHN DREHER, THOMAS OLSEN,
GIUSEPPE ROBERT PENORO, MATTHEW
CONNOR, NICHOLAS MULLIGAN, RANDALL
SANTANA, ANTHONY PERRONE, SCOTT
ETTINGER, ANTHONY MASTROPIETRO,
RASHAAD TAYLOR, ANTHONY RUGGIERO,
JOSEPH MURDOCCA, KEITH KLEIN, PAUL
VASQUENZ, MARK HENESY, RYAN K. HALL,
JUDE PIERRE, MICHELLE SANTIAGO, ROBERT
DITRANI, BRIAN T. DENZLER, MICHAEL
MCGOFF, on behalf of themselves and all other
similarly situated employees of the New York City Fire
Department,

Plaintiffs,

-against-

NEW YORK CITY FIRE DEPARTMENT, DANIEL A.
NIGRO, in his official and individual capacities, JOHN
DOE #1-10, in their official and individual capacities;
and JANE DOE #1-10 in their official and individual
capacities,

Defendants.

-----X

INDEX NO. _____

ORDER TO SHOW CAUSE

Upon the Affidavit of John Garland, sworn to on the 22nd day of November 2021, the
Affidavit of David Button, sworn to on the 23rd day of November 2021, the Affidavit of
Christopher Raimondi, sworn to on the 22nd day of November 2021, the Affidavit of Margot
Phillips Loth, sworn to on the 24th day of November, the accompanying Affirmation of Austin

Graff, affirmed to on the 24th day of November 2021, the accompanying Memorandum of Law, and upon the copy of the Complaint hereto annexed, it is

ORDERED, that the above named Defendants show cause before a motion term of this Court at Room ___, United States Courthouse, _____, _____, County of _____, State of New York on _____, 2021 at _____ o'clock in the ____noon thereof, or as soon thereafter as counsel may be heard, why an order should not be issued pursuant to Rule 65 of the Federal Rules of Civil Procedure:

- (a) enjoining and restraining the New York City Fire Department from withholding pay from any and all New York City Fire Department officer who has failed to take a COVID-19 vaccine;
- (b) enjoining and restraining the New York City Fire Department from withholding pay from any and all New York City Fire Department fire fighter who have failed to take a COVID-19 vaccine;
- (c) enjoining and restraining the New York City Fire Department from withholding pay from any and all New York City Fire Department Emergency Medical Services employees who have failed to take a COVID-19 vaccine;
- (d) enjoining and restraining the New York City Fire Department from disciplining, including but not limited to terminating any and all New York City Fire Department officer who has failed to take a COVID-19 vaccine without proffering charges and specifications and granting the New York City Fire Department officer a hearing on the charges;
- (e) enjoining and restraining the New York City Fire Department from disciplining, including but not limited to terminating any and all New

York City Fire Department fire fighter who has failed to take a COVID-19 vaccine without proffering charges and specifications and granting the New York City Fire Department fire fighter a hearing on the charges;

- (f) enjoining and restraining the New York City Fire Department from disciplining, including but not limited to terminating any and all New York City Fire Department Emergency Medical Services employees who has failed to take a COVID-19 vaccine without proffering charges and specifications and granting the tenured principal a hearing on the charges;

and it is further

ORDERED, that, sufficient reason having been shown therefore, pending the hearing of Plaintiffs' application for a preliminary injunction, pursuant to Rule 65, Fed. R. Civ. P., the Defendants are temporarily:

- (a) enjoined and restrained the New York City Fire Department from withholding pay from any and all New York City Fire Department officers who have failed to take a COVID-19 vaccine and shall immediately restore all New York City Fire Department officers who have been placed on unpaid status because of their COVID-19 vaccination status to active pay status and restore their wages, benefits, including health benefits, and pension credits; and;
- (b) enjoined and restrained the New York City Fire Department from withholding pay from any and all New York City Fire Department fire fighters who have failed to take a COVID-19 vaccine and shall immediately restore all New York City Fire Department fire fighters who have been placed on unpaid status because of their COVID-19 vaccination

status to active pay status and restore their wages, benefits, including health benefits, and pension credits; and;

- (c) enjoined and restrained the New York City Fire Department from withholding pay from any and all New York City Fire Department Emergency Medical Services employees who have failed to take a COVID-19 vaccine and shall immediately restore all New York City Fire Department Emergency Medical Services employees who have been placed on unpaid status because of their COVID-19 vaccination status to active pay status and restore their wages, benefits, including health benefits, and pension credits; and
- (d) enjoined and restrained the New York City Fire Department from barring any New York City Fire Department employee from sitting for the Captain's test, scheduled for December 13, 2021, based upon the New York City Fire Department employee's COVID-19 vaccination status; and
- (e) enjoined and restrained the New York City Fire Department from disciplining, including but not limited to terminating any and all New York City Fire Department officers who have failed to take a COVID-19 vaccine without proffering charges and specifications and granting the New York City Fire Department officers a hearing on the charges, including, but not limited to the December 1, 2021 threat to unilaterally separate New York City Fire Department officers due to vaccination status; and
- (f) enjoined and restrained the New York City Fire Department from disciplining, including but not limited to terminating any and all New York City Fire Department fire fighters who have failed to take a COVID-19 vaccine without proffering charges and specifications and granting the New York City Fire Department fire fighters a hearing on the charges, including, but not limited to the December 1, 2021 threat to unilaterally

separate New York City Fire Department fire fighters due to vaccination status; and

- (g) enjoined and restrained the New York City Fire Department from disciplining, including but not limited to terminating any and all New York City Fire Department Emergency Medical Service employees who have failed to take a COVID-19 vaccine without proffering charges and specifications and granting the New York City Fire Department Emergency Medical Service employees a hearing on the charges, including, but not limited to the December 1, 2021 threat to unilaterally separate New York City Fire Department Emergency Medical Service employees due to vaccination status;

and its further

ORDERED that security in the amount of \$0.00 be posted by the Plaintiffs prior to _____, 2021, at _____ o'clock in the ____noon of that day; and it is further

ORDERED, that personal service of a copy of this Order, the Affidavit of _____, sworn to on the ____ day of November 2021, the accompanying Affirmation of Austin Graff, affirmed to on the ____ day of November 2021, the accompanying Memorandum of Law, and upon the copy of the Complaint hereto annexed on or before _____ o'clock in the ____noon, _____, 2021 shall be deemed good and sufficient service thereof upon the Defendants.

Dated: _____, New York
Issued: _____

United States District Judge